

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ALLAN ROBERTS et al.,

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Plaintiffs-Appellants,

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v.

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Case No. 23-7106

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ISLAMIC REPUBLIC OF IRAN et al.,

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Defendants-Appellees.

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PLAINTIFFS-APPELLANTS' MOTION TO HOLD CASE IN ABEYANCE

NOW COMES the appellants, Allan Roberts et al., by counsel, and hereby move this Court to hold in abeyance all proceedings in this matter, including the briefing schedule, pending the final resolution of the ongoing appeal in the case of *Borochoy v. Islamic Republic of Iran*, and in support thereof, states as follows:

1. This appeal was brought by ten foreign citizen family members (“Plaintiffs-Appellants”) of three United States government contractors that were severely injured while on duty in Iraq in March 2010.

2. A blast from a specially designed and Iranian-manufactured explosive caused Allan Roberts to require amputation of both his legs, Steven Crowley to lose his left leg, and John Jameson to suffer a traumatic brain injury. The trial court found that Iran was not immune in this case and that it was liable for these injuries under the federal cause of action found in 28 U.S.C. § 1605A(c).

3. The court below ruled against Plaintiffs-Appellants however, on the basis that, in the court’s estimation, 1) the applicable choice-of-law principles required the application of English law; and 2) that no viable cause of action existed for these claims under English law. Plaintiffs-Appellants filed this appeal to challenge both these issues.

4. Plaintiffs-Appellants filed their opening brief on December 11, 2023. On March 13, 2024, the Court-ordered amicus briefing was filed. In the interim, this Court had issued its ruling in the case of *Borochoy v. Islamic Republic of Iran*, in which the panel held that for sovereign immunity to be waived as the result of a bombing, pursuant to 28 U.S.C. § 1605A(a), at least one individual other than the perpetrators must have died in the attack. No. 22-7058, 2024 WL 995897 (D.C. Cir. Mar. 8, 2024) (Millett, Pillard, Wilkins, JJ.)

5. Based on the information currently known to Plaintiffs-Appellants, it is not believed that anyone died in the March 2010 bombing that is the subject of this appeal. Therefore, since the waiver of sovereign immunity is a jurisdictional issue, this case is likely dependent upon the outcomes of any future proceedings in *Borochoy* as a threshold matter to any of the substantive issues raised by this appeal.

6. Centrally to this request, “the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936).

7. Plaintiffs-Appellants acknowledge that the holding in *Borochoy*, if it remains unchanged, would likely be dispositive of their claims. Therefore, in the interest of judicial economy, Plaintiffs-Appellants request that this Court hold this case in abeyance, including the briefing schedule, pending the final resolution of any further appellate proceedings in the *Borochoy* case.

8. Counsel for Plaintiffs-Appellants has conferred with the court-appointed amicus counsel, Ms. Greenaway, and she has no objection to the proposed abeyance.

Respectfully submitted,

/s/ Kevin A. Hoffman

Randy D. Singer, Esq. (DCD Bar No. VA057)
Kevin A. Hoffman, Esq. (DC Bar No. 1044559)
Maryam M. Atty, Esq. (DCD Bar No. VA137)
SINGER HOFFMAN, LLC
1209A Laskin Road
Virginia Beach, VA 23451
Phone: (757) 301-9995
Facsimile: (757) 233-1084
Email: randy.singer@singerhoffman.com
Email: kevin.hoffman@singerhoffman.com
Email: maryam.atty@singerhoffman.com
Counsel for Plaintiffs-Appellants